



## LEGISLATIVE UPDATE

September 25, 2015

This Session is finally coming to an end: the Senate passed an Adjournment Resolution [SJR 721](#) setting Tuesday, September 29 as the current last day of Session. There are already conflicting opinions on whether this will be physically possible, with all the bills still in the hopper. It remains to be seen if Tuesday will be the final day, but next week should be the last. Controversial education bills such as [HB 539](#) Charter School Funding (see full summary below) and SB 95 “Achievement School District” saw action this week, and depending on how the anticipated final 48 hours of Session transpire, these bills will either survive, be defeated, or be salvaged for the 2016 Short Session set to begin on Monday, April 25, 2016.

On Thursday, the House Rules Committee had a number of bills on its docket, many of which were not reached. One of those not reached was the not-yet-public, but very publicized, SB 95 “Achievement School District” (officially titled “Performance-Based RIF/School Policy”). This bill is currently set for House Rules again Monday morning. However, the sponsor of this legislation indicated that a study on taking over the state’s lowest-performing schools to perhaps form a new Achievement School District is more likely in the interim. For more details on yesterday’s development, please see additional [news coverage](#).

### **Relevant Bills in Committee or on the Floor This Week:**

#### **[HB 272](#) Appointments Bill 2015**

Appointments related to education:

- Anthony Helton of Rutherford County: appointed by the Speaker of the House to the North Carolina Charter Schools Advisory Board for a term expiring on June 30, 2019.
- Dr. Ellen C. Collett of Burke County and Paul Powell of Guilford County: appointed by the Speaker of the House to the Board of Trustees of the North Carolina School of Science and Mathematics for terms expiring on June 30, 2017.
- Senator Dan Soucek of Watauga County: appointed to the Education Commission of the States for a term expiring on December 31, 2017.
- Sherry Reeves of Pamlico County: appointed by the President Pro Tempore of the Senate to the North Carolina Charter Schools Advisory Board for a term expiring on June 30, 2017.

#### **[HB 318](#) Protect North Carolina Workers Act**

On Wednesday, the Senate Committee on Rules approved an amended HB 318, and the Senate further amended and tentatively passed it on Thursday. The bill would change state employment law statutes, and, among other things, prohibit any institution or subdivision of the state from entering into a contract unless the contractor and any subcontractors utilize the federal E-verify system to check employee immigration status. State and local government entities can satisfy this provision by including in a contract that the contractor/subcontractors comply with the state’s E-verify requirements (limited

exemptions for travel, etc.). The NC Commissioner of Labor would be directed to notify any governmental entity found in violation; a list of which would be compiled and published on the Department of Labor's website.

For all government entities in the state, the bill would prohibit any identifying document issued by another country, other than a valid passport or state-authorized identity document, from being an acceptable form of identification (e.g., prohibiting use of a "matricula consular" as an identification document). Any contradicting local government policy or ordinance would be automatically repealed. Cities and counties would be prohibited from having any policy, ordinance, or procedure that limits or restricts the enforcement of federal immigration laws. They would furthermore be prohibited from limiting the gathering of citizenship or immigration status information from any individual to federal law enforcement.

#### [HB 495](#) OSHR Modernization/Technical Changes

Nearly three months after the House and Senate appointed their conferees to resolve differences on this bill, the House adopted the final changes this week, and the Senate is set for what may be a final vote on Monday. This bill would make various changes to state personnel statutes formerly known as the "State Personnel Act," now codified as the "NC Human Resources Act" (NCHRA). The bill redefines a "career state employee" as an eligible employee who is in a "permanent position with a permanent appointment" and who has been continuously employed in such a position for "the immediate 12 preceding months" (current law requires 24 preceding months). The conference report carves out an exception for certain sworn law enforcement positions, requiring such employees to be employed for 24 continuous months to be a "career state employee." The legislation makes other changes under Chapter 126, and will generally be effective October 1, 2015, with other provisions becoming effective when it becomes law (assuming the legislation passes and is signed by the Governor).

#### [HB 539](#) Charter School Funding

On Monday, the Senate Committee on Finance re-purposed a pre-existing bill and introduced controversial changes to Fund 8, in an attempt to revamp state laws on charter school funding. The General Assembly's Research Division drafted a comprehensive [summary](#) of the bill changes and current law. For anyone with vested interests in how local funds are to be apportioned among LEAs and charter schools, please [contact your legislators](#) immediately as the bill is set for a vote in the Senate on Monday, September 28. Aside from the budget, this bill could be the most controversial education bill of the Session.

Current law requires LEAs to transfer an equal per pupil amount of funding from the local current expense fund to the applicable charter. Transfer must occur within 30 days of moneys being deposited into the local current expense fund. If the amount is disputed, existing law provides for court action. HB 539 would compel the court to also award the prevailing party liquidated damages in an amount equal to 5% of the moneys that should have been transferred.

The bill would also allow money derived from supplemental taxes to “follow the child” even if the student attends a charter school outside that taxing district. A September 2015 Attorney General’s Opinion pronounced such a change to likely be unconstitutional.

The bill would further make changes to Fund 8 (funds not shared with charter schools) and specifically enumerates moneys allowed to be maintained in such a fund:

1. Moneys received for pre-k programs.
2. Moneys received for the federal JROTC program.
3. Federal use-restricted grants that are required by the donor to be held separately.
4. Rental fees for the use of facilities of public schools other than charter schools.
5. Sales tax refunds.
6. Tuition.
7. Gifts or grants that expressly exclude charter schools, are expressly for an individual school, or were pledged prior to July 1, 2015.
8. Enterprise funds where the LEA collects a fee for service.
9. Fund balances used or accruing for the LEA’s current operating expenses.
10. Interest income.

Finally, the bill lists LEA funds that would be shared with charter schools under HB 539:

1. Moneys received for indirect costs.
2. Reimbursements for a student, excluding those for Medicare and Medicaid.
3. Fees for actual costs.
4. All sales tax revenues regardless of how they are distributed.
5. Gifts and grants not subject to the specified restrictions.
6. Federal appropriations made directly to LEAs.

#### [HB 943](#) “Connect NC” Bond Act of 2015

On Tuesday, the Senate Committee on Finance approved an amended version of HB 943, and the Senate passed it on Thursday. It will now go back to the House for consideration of Senate changes. This bill is a bond and spending package that would go before the voters of North Carolina on the March 15, 2016, Presidential Primary ballot for approval or rejection. It was previously approved by the House and totaled nearly \$2.9 billion before being substantially amended by the Senate. \$500 million for K-12 school construction, repairs, and renovations, and \$400 million for road construction projects throughout the state were removed. The bill still includes \$890 million for various UNC System construction projects and \$350 million for community college construction, repairs, and renovations.

#### [SB 97](#) State Advisory Council on Indian Education

On Tuesday, the House Committee on Rules approved SB 95, and the House passed it unanimously, unchanged from the version that previously passed the Senate. It now goes to the Governor’s desk. The bill makes changes to the composition of the State Advisory Council on Indian Education (SACIE), as follows:

- Directs the UNC System Board of Governors and the State Board of Community Colleges to each appoint an American Indian from higher education, preferably a faculty member.
- Reduces the number of American Indian parents from eight to five. Requires these parent members to have students enrolled in the K-12 public schools, including charter schools.
- Increases the number of American Indian K-12 public school educators from two to five, and requires one member to be a Title VII director or coordinator, to be appointed by the SBE from a list of recommendations submitted by the North Carolina Commission on Indian Affairs.

The bill also requires SACIE members to be broadly representative of North Carolina Indian tribes and organizations, North Carolina State-recognized tribes and organizations, and tribes recognized by the United States Bureau of Indian Affairs. Current SACIE members will serve the remainder of their terms, and as vacancies occur, new members will be appointed in accordance with the above changes.

#### [SB 279](#) Amend Qualifications/Practice of Counseling

On Monday night, the Senate unanimously did not concur with the House changes to this licensed professional counselor and health education curriculum bill. The changes made by the House included expanding the eligible “credentialed experts” required to review course information under the statute enumerating curricula on reproductive health and safety education. The House also added provisions under G.S. 115C-81 for the teaching of Sex Trafficking Prevention and Awareness. For those educators and administrators involved in Health Education, please review this legislation carefully and consider contacting the legislators on the [Conference committee](#) appointed.

#### [SB 605](#) Various Changes to Revenue Laws

On Wednesday, the House Committee on Finance approved an amended version of SB 605. The House gave it tentative passage on Thursday, with a third vote scheduled for Monday. The bill would make various changes to the state’s revenue laws. Of those being potentially changed, some related to education include: 1) sales tax exemption for food, prepared food, soft drinks, candy, and other items of tangible personal property sold at an event sponsored by an elementary or secondary school when the net proceeds will be given to the school; and 2) an optional local sales tax (up to 1/2%) that counties may levy and, pending a referendum vote, use solely for public education needs. Proceeds of the tax would not be shared with cities and may only be used for: (a) public school capital outlay purposes or capital outlay debt; (b) teacher and/or teacher assistant salaries or salary supplements; and (c) financial support of community colleges. Boards of county commissioners would be authorized to direct these funds to teacher and/or teacher assistant salaries or salary supplements.

**Other Bills with Action This Week:**

[HB 112](#) Stanly County Board of Education Election Method

- Ratified, SL 2015-242

[HB 373](#) Elections

- Setting state's primaries for March 15, 2016 (changed from [May 2016](#))
- Presented to Governor

[HB 503](#) Moore County Commissioners and Board of Education Changes

- Ratified, SL 2015-244

[HB 527](#) Omnibus Local Act

- House passed Senate revised bill
- Presented to Governor

[HB 765](#) Regulatory Reform Act of 2015

- [Conference report](#) on House Calendar for Monday, September 28
- [Conference report](#) on Senate Calendar for Monday, September 28

[SB 119](#) GSC Technical Corrections 2015

- Referred to House Rules Committee

[SB 238](#) Stalking by GPS/Criminal Offense

- [Conference report](#) unanimously passed by House and Senate

**Meetings Next Week (September 28-October 2):**

Monday, September 28

- 10:30 a.m. Senate Session
- 11:00 a.m. House Committee on Rules, Calendar, and Operations
  - [SB 95](#) Performance-Based RIF/School Policy (to be renamed "Achievement School District")
  - [SB 119](#) GSC Technical Corrections 2015
  - [SB 524](#) Founding Principles/Graduation Requirement
- 1:00 p.m. House Session

Tuesday, September 29

- Current Adjournment date for Senate [SJR 721](#)

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Law School Extern  
(through November 2015)